

441-79273

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Plaintiff,

NOTICE OF MOTION

Case No: 04 CV 4971 (NG)
(MDG)

- against -

OLYMPIA MORTGAGE CORPORATION and LIEB
PINTER, SHAINDY PINTER, BARRY
GOLDSTEIN, MIRIAM GOLDSTEIN, SAMUEL
PINTER, FAGIE PINTER, ABE DONNER, ZEISHA
AUERBACH, ALAN BRAUN, ALAN J. BRAUN
AND CO., MARCUS PINTER, MIDWOOD
FEDERAL CREDIT UNION, 1716 REALTY
CORPORATION, KAHAL SHOMREI HADATH and
DOE COMPANIES,

Defendants.

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OLYMPIA MORTGAGE CORPORATION,

Crossclaim Plaintiff,

-against-

LIEB PINTER, et al.

Crossclaim Defendants

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COUNSELORS:

PLEASE TAKE NOTICE, that upon the annexed declaration of Michael F. Lynch, Esq., dated May 1, 2008 and exhibits annexed thereto; the annexed F. R. Civ. P. 56.1 Statement dated May 1, 2008 and the annexed memorandum of law dated May 1, 2008, and upon all prior pleadings and proceedings had herein, the undersigned, on behalf of the defendant and cross claim defendant, MARCUS PINTER ("Mr. Pinter"), will move this Court, at the United States Courthouse located at 225 Cadman Plaza East, Brooklyn, New York, on the 8th day of

December, 2008, at 10:00 a.m. in the forenoon of that day, or as soon thereafter as counsel may be heard, for an order:

1. pursuant to F. R. Civ. P. 56(b) granting summary judgment and dismissing plaintiff, Federal National Mortgage Association's, ("Fannie Mae") amended complaint with prejudice, as against Mr. Pinter on the following grounds:

(i). Fannie Mae can not sustain a claim for aiding and abetting fraud against Mr. Pinter;

(ii). Fannie Mae cannot sustain a claim of accounting malpractice against Mr. Pinter;

and

2. pursuant to F. R. Civ. P. 56(b) granting summary judgment and dismissing the defendant/crossclaim plaintiff, Olympia Mortgage Corporation's, ("Olympia") crossclaim with prejudice, as against the crossclaim defendant, Mr. Pinter on the following grounds:

(i). Olympia cannot sustain a claim of accounting malpractice against Mr. Pinter; and

3. In the alternative and in the event that the instant motion for summary judgment is denied with respect to Fannie Mae's claim against Mr. Pinter, pursuant to F. R. Civ. P. 15(a), allowing Mr. Pinter to amend his answer to the amended complaint and assert the affirmative defense of set off;

4. Together with such other and further relief as this Court may deem just and proper.

Dated: New York, New York
December 8, 2008

Yours, etc.

MARTIN CLEARWATER & BELL LLP

By:  _____

MICHAEL F. LYNCH (ML 8282)

Attorneys for Defendant

Marcus Pinter

220 East 42nd Street

New York, New York 10017

(212) 697-3122

CERTIFICATION

MICHAEL F. LYNCH, ESQ., an attorney duly admitted to practice before this Court, and a member of the firm of MARTIN CLEARWATER BELL LLP, attorney of record for the defendant MARCUS PINTER, an individual, hereby declares the following under the penalties of perjury.

A complete copy of this Reply Affirmation was electronically filed with the Court on December 8, 2008.

By: 

MICHAEL F. LYNCH (ML 8282)